

STATE OF MICHIGAN  
MACOMB COUNTY CIRCUIT COURT

STEVE CONRAD,

Plaintiff,

vs.

Case No. 2005-4807-CZ

COMPREHENSIVE COLLECTION SERVICES,  
MEDICAL PAYMENT DATA a.k.a. ARGENT,  
EMC MORTGAGE, CORNERSTONE COMMUNITY  
FEDERAL CREDIT UNION, FIRST PREMIER BANK,  
CAPITAL ONE BANK, EQUITY ONE, L.J. ROSS &  
ASSOCIATES, OPTION ONE MORTGAGE,

Defendants.  
\_\_\_\_\_ /

OPINION AND ORDER

This matter is before the Court concerning plaintiff's motion for entry of default judgment.

In a complaint filed on November 30, 2005, plaintiff alleged that defendants have reported erroneous information regarding his credit history to Transunion, Equifax, Experion and other credit reporting agencies. Plaintiff therefore requested that this Court order defendants "to remove said derogatory information from [his] credit file[s]." On March 16, 2006, defaults were entered as to each of the defendants in this matter. On March 27, 2006, plaintiff filed the present motion for entry of default judgment.



A default judgment is proper where a party has failed to plead or otherwise defend an action. *Costa v Community Emergency Medical Services, Inc*, 475 Mich 403; \_\_\_ NW2d \_\_\_ (Dec'd June 28, 2006) (citation omitted). Notice to a defaulted party who has not made an appearance in the case must be served by personal service, first class mail, or as otherwise directed by the Court. MCR 2.603(A)(2). Upon motion by the party entitled to a default judgment, the Court may then enter the default judgment. MCR 2.603(B)(3). However, failure to properly serve a defendant with a summons and complaint deprives the Court of personal jurisdiction, and the Court has no legal authority to enter a judgment under such circumstances. See, e.g., *Alycekay Co v Hasko Construction Co, Inc*, 180 Mich App 502, 505-506; 448 NW2d 43 (1989); see also *Dogan v Michigan Basic Prop Ins Ass'n*, 130 Mich App 313, 320; 343 NW2d 542 (1983).

In an Opinion and Order issued on May 11, 2006, this Court determined that plaintiff's attempt to effectuate service of process was defective as to all defendants in this matter apart from Equity One. Therefore, the Court denied plaintiff's motion for default judgment as to all defendants except Equity One, and dismissed plaintiff's complaint as to all defendants but Equity One without prejudice.

The Court's careful review of the affidavits of service indicated that personal service was apparently effectuated as to Equity One alone. However, the affidavit of service pertaining to this defendant did not indicate the process recipient's identity or his relationship to Equity One. The Court found that it would be useful to have some clarification as to the identity of the recipient. As such, plaintiff's motion for default judgment as to defendant Equity One was held

in abeyance, and plaintiff was ordered to provide the Court with an affidavit indicating the identity and relationship to Equity One of the individual who received process on behalf of Equity One.

On June 9, 2006, plaintiff filed an "affidavit in support of entry of default judgment." In this affidavit, plaintiff states that Equity One was served through its official resident agent, Jason Rivchin. Plaintiff has included a photocopy of the proof of service as to this defendant. Plaintiff has also included a computer print-out from the Michigan Department of Labor and Economic Growth indicating that Jason Rivchin is Equity One's resident agent, and that 31313 Northwestern Highway, Ste. 205, in the City of Farmington Hills, is Equity One's registered office. Service of process on a private corporation may be made by serving a summons and a copy of the complaint on the resident agent. MCR 2.105(D). Based on the affidavit and the other information plaintiff has provided to the Court, the Court is satisfied that the personal service that plaintiff effectuated on Equity One's resident agent was legally sufficient to establish the personal jurisdiction of this Court as to this defendant. Therefore, the Court finds that plaintiff's request for entry of a default judgment as to defendant Equity One should be granted.

For the reasons set forth above, plaintiff's motion for entry of default judgment is GRANTED as to defendant Equity One. It is further ORDERED that defendant Equity One must remove all derogatory information from plaintiff's credit reports which defendant Equity One has previously reported to Transunion, Equifax, Experian and any other credit reporting

agencies within thirty (30) days from date of this Order. Pursuant to MCR 2.602(A)(3), this Opinion and Order resolves the last pending claim and closes this case.

IT IS SO ORDERED.

Dated: **JUL 20 2006**  
DMD/mgc

cc: Plaintiff, In Pro Per  
Equity One

Diane M. Druzinski, Circuit Court Judge

**DIANE M. DRUZINSKI**

**CIRCUIT JUDGE**

**JUL 20 2006**

**A TRUE COPY**

**GARMELLA SABAUGH, COUNTY CLERK**

BY: Patricia K. Jones Court Clerk